

§ 359.703 Responsibility for placement.

The agency taking the removal action is responsible for placing the appointee in an appropriate position within the agency, or for arranging a transfer to an appropriate position in another agency. Any transfer must be mutually acceptable to the appointee and the gaining agency.

§ 359.704 Restrictions.

Placement of an appointee under this subpart shall not cause the separation or reduction in grade of any other employee.

§ 359.705 Pay.

(a) An appointee placed under this subpart in a position outside the SES (in the same or different agency) is entitled to receive basic pay at the highest of—

(1) The rate of basic pay in effect for the position in which the appointee is being placed (*i.e.*, a rate of basic pay within the normal rate range of the position in which placed, consistent with the rules of the pay system covering such position);

(2) The rate of basic pay currently in effect for the position the appointee held immediately before being appointed to the SES; or

(3) The rate of basic pay in effect for the appointee immediately before removal from the SES.

(b)(1) The rate of basic pay under paragraph (a)(1) and (2) of this section includes any applicable locality payment under 5 U.S.C. 5304, special rate supplement under 5 U.S.C. 5305, or similar payment under other legal authority.

(2) When an employee is entitled to a payable rate of basic pay under paragraph (a)(2) or (3) of this section which exceeds the maximum payable rate of basic pay for the grade or level of the employee's position after placement, the resulting saved rate is subject to the adjustment and termination rules in paragraphs (d) through (f) of this section.

(c)(1) For an employee placed in a General Schedule position, a saved rate established under this section may not be supplemented by a locality payment under 5 U.S.C. 5304, a special rate supplement under 5 U.S.C. 5305, or a simi-

lar payment under other legal authority.

(2) A saved rate established under this section is subject to the limitation on Senior Executive Service pay in 5 U.S.C. 5382 of the rate for level II of the Executive Schedule.

(3) A saved rate established under this section is considered an employee's rate of basic pay for the same purposes as a retained rate under 5 CFR part 536, as described in 5 CFR 536.307.

(d) A saved rate established under this section must be adjusted in connection with a pay schedule adjustment according to the following rules:

(1) When the maximum payable rate of basic pay for the grade or level of an employee's position is increased while the employee is receiving a saved rate, the employee is entitled to a pay adjustment equal to 50 percent of the amount of the increase in that maximum payable rate, except as otherwise provided in this section.

(2) If an employee's official worksite is changed while the employee is receiving a saved rate, a change in the applicable range maximum because of a change in an employee's official worksite is not considered in applying paragraph (d)(1) of this section. Instead, any adjustment of the employee's saved rate in conjunction with a change in official worksite must be determined under paragraph (e) of this section. If an employee's range maximum is increased because of a pay schedule adjustment on the same effective date as a change in the employee's official worksite, the saved rate must be adjusted under paragraph (d)(1) of this section before applying paragraph (e) of this section.

(3) A change in an employee's rate range maximum resulting from a change in the employee's position (*e.g.*, change in occupational series) that causes the employee to be covered by a different pay schedule does not result in application of paragraph (d)(1) of this section.

(4) When an employee's saved rate becomes equal to or lower than the maximum payable rate of basic pay for the grade or level of the employee's position, the employee is entitled to the maximum payable rate, and saved pay under this section ceases to apply.